

10645. Misbranding of canned peas. U. S. v. 367 Cases * * *. (F. D. C. No. 18055. Sample No. 32485-H.)

LABEL FILED: November 1, 1945, Southern District of California.

ALLEGED SHIPMENT: On or about August 20, 1945, by the Woods Cross Canning Co., from Clearfield, Utah.

PRODUCT: 367 cases, each containing 24 1-pound, 4-ounce cans, of peas at Los Angeles, Calif.

LABEL, IN PART: "Clearfield Brand Sweet Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), in addition to the high alcohol-insoluble solids content, these peas were below standard because of the high percentage of peas that were not tender.

DISPOSITION: November 23, 1945. The Woods Cross Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled under the supervision of the Federal Security Agency.

10646. Misbranding of canned peas. U. S. v. 1,347 Cases * * *. (F. D. C. No. 18209. Sample No. 10564-H.)

LABEL FILED: October 26, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 17, 1945, by the Durand Canning Co., from Durand, Wis.

PRODUCT: 1,347 cases, each containing 24 cans, of peas at Pittsburgh, Pa. The product was shipped unlabeled and invoiced as "Std. #4 Alaska Peas."

NATURE OF CHARGE: Misbranding Section 403 (h) (1), the product was below standard in quality because of high alcohol-insoluble solids; Section 403 (g) (2), it failed to bear a label stating the name of the food specified in the definition and standard of identity for canned peas; Section 403 (e) (1), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: November 9, 1945. Francis H. Leggett and Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

10647. Adulteration of turnip greens and mustard greens. U. S. v. 498 Cases of Turnip Greens (and 3 other seizure actions against turnip greens and mustard greens). (F. D. C. Nos. 18370-A, 18371-A, 18556, 18557. Sample Nos. 21095-H, 21096-H, 21377-H, 21378-H.)

LABELS FILED: On or about November 26 and December 4, 19, and 27, 1945, District of Kansas and Western District of Missouri.

ALLEGED SHIPMENT: On or about September 14, 1945, by the Denton Canning Co., from McAllen, Tex.

PRODUCT: 498 cases of turnip greens and 49 cases of mustard greens at Wichita, Kans., and 494 cases of turnip greens and 397 cases of mustard greens at Kansas City, Mo. Each case contained 24 1-pound, 2-ounce cans.

LABEL, IN PART: "Denton Turnip [or "Mustard"] Greens."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy and decomposed substances by reason of the presence of larvae and insect fragments and decomposed turnip and mustard greens.

DISPOSITION: January 11 and 23 and February 14 and 26, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

10648. Adulteration and misbranding of sauerkraut. U. S. v. 684 Cases * * *. (F. D. C. No. 12632. Sample No. 76219-F.)

LABEL FILED: June 13, 1944, District of New Jersey.

ALLEGED SHIPMENT: On or about May 5 and 10, 1944, by the Golden Pickle Works, Inc., from Brooklyn, N. Y.

PRODUCT: 684 cases, each containing 12 1-quart jars, of sauerkraut at Perth Amboy, N. J.

LABEL, IN PART: "Golden's Fancy Sauerkraut."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water and vinegar had been substituted in part for sauerkraut, which the article was represented to be.

Misbranding, Section 403 (a), the label statement "Fancy Sauerkraut * * * Contains Cabbage, Salt, $\frac{1}{10}$ of 1% Benzoate of Soda and $\frac{1}{10}$ of 1% Sulfur Dioxide" was false and misleading, since water and vinegar were also present, since little or no lactic acid was present, which is characteristic of properly prepared sauerkraut, and since it contained less than $\frac{1}{10}$ of 1 percent sulfur dioxide; and, Section 403 (d), the container of the article was so filled as to be misleading, since the jars were large enough to hold at least 50 percent more sauerkraut.

DISPOSITION: On December 4, 1944, the Golden Pickle Works, Inc., claimant, filed an answer denying that the product was adulterated and misbranded as alleged, to which answer were attached 14 interrogatories. The Government filed a motion to strike the interrogatories on the ground that they were objectionable in that they constituted an attempt to obtain disclosure of the manner in which the Government's case was to be established and the evidence upon which it intended to rely. On September 27, 1945, the Government's motion was argued to the court, and the interrogatories were ordered stricken from the answer. On January 10, 1947, on motion of the claimant, the court dismissed the claimant's exceptions and answer, and after hearing the evidence on behalf of the Government, the court found for the Government. Judgment of condemnation was entered, and the products was ordered destroyed.

10649. Adulteration and misbranding of sauerkraut. U. S. v. 266 Cases * * * (and 4 other seizure actions). (F. D. C. Nos. 17530, 19582, 19658, 20053, 20065. Sample Nos. 58223-H, 58272-H, 58280-H, 59020-H, 59026-H.)

LIBELS FILED: Between the approximate dates of February 25 and June 7, 1946, District of Montana.

ALLEGED SHIPMENT: On or about December 27, 1945, and January 4 and 5, 1946, by the Oelerich and Berry Co., from Chicago, Ill.

PRODUCT: Sauerkraut. 414 cases at Butte, 103 Cases at Bozeman, 214 cases at Missoula, and 44 cases at Livingston, Mont. Each case contained 12 jars. Examination showed that the article was short-volume and that, because of the tendency of kraut to disperse in the packing medium, the jars appeared to contain more kraut than was actually the case.

LABEL, IN PART: (Jar) "Chipico Home Style Sauer Kraut Contents 1 Quart Chicago Pickle Co., Inc., Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), brine had been substituted in part for sauerkraut.

Misbranding, Section 403 (d), the container of the article was so filled as to be misleading; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: On August 20 and 21, 1946, the Chicago Pickle Co., Inc., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond, conditioned that it be repacked in compliance with the law, under the supervision of the Food and Drug Administration. On April 22, 1947, the claimant having failed to comply with the conditions of the decree, the court ordered the product delivered to a public hospital.

10650. Adulteration of Toastillas (corn product). U. S. v. Sarah E. Wright and Ollie A. Winters (Toastilla Co.) Plea of nolo contendere. Each defendant fined \$100. (F. D. C. No. 16509. Sample Nos. 316-H, 912-H, 917-H.)

INFORMATION FILED: October 10, 1945, Middle District of Georgia, against Sarah E. Wright and Ollie A. Winters, trading as the Toastilla Co., Columbus, Ga.

ALLEGED SHIPMENT: Between the approximate dates of February 2 and 14, 1945, from the State of Georgia into the State of Florida.

LABEL, IN PART: "ToasTillas Ingredients: While Grain Corn Cooked in Vegetable Oil Salt Added."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect frag-